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BALANCE STAFFING WORKFORCE, LLC (erroneously sued as Balance Staffing) and
PERSONNEL STAFFING GROUP, LLC (erroneously sued as MVP PERSONNEL
STAFFING GROUP)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GEORGE J. AUSTIN, an individual)	CASE NO. 3:20-cv-00800-EMC
)	
Plaintiff,)	DEFENDANT BALANCE
)	STAFFING WORKFORCE, LLC'S
vs.)	JOINDER IN DEFENDANT
)	TESLA'S MOTION TO DISMISS
TESLA, INC., et al.,)	OR STRIKE PORTIONS OF
Defendants.)	PLAINTIFF'S FIRST AMENDED
)	COMPLAINT
)	
)	Judge: Edward M. Chen
)	
)	

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT during the Court's hearing on December 18, 2020 at 2:00 p.m. regarding Defendant TESLA, INC. D/B/A IN CALIFORNIA AS TESLA MOTORS, INC.'s (erroneously sued as TESLA, INC.) Motion to Dismiss, or in the Alternative, Motion to Strike ("Tesla's Motion"), the Court allowed Defendant BALANCE STAFFING WORKFORCE, LLC (erroneously sued as Balance Staffing) ("BSW") to file a joinder to Tesla's Motion; thus, Defendant BSW hereby joins Tesla's Motion with respect to the ten causes of action in Plaintiff GEORGE AUSTIN's First Amended Complaint ("FAC"), which causes of

1 action are plead against both BSW and Tesla. BSW respectfully requests that any relief ordered
2 by the Court with regard to those causes of action be ordered in favor of Tesla and BSW as well
3 on the grounds that Plaintiff fails to state in those causes of action a claim upon which relief can
4 be granted under Federal Rules of Civil Procedure, Rule 12(b)(6).

- 5 1. Defendant BSW joins Defendant Tesla's Motion to Dismiss regarding the fourth
6 cause of action for conversion, ninth cause of action for wrongful termination, and
7 tenth cause of action whistleblower retaliation on identical grounds.
- 8 2. Defendant BSW joins Defendant Tesla's Motion to Dismiss regarding the first
9 cause of action for defamation on the grounds that the alleged statement cannot
10 form the basis for a defamation claim under the common interest privilege.
- 11 3. Defendant BSW joins Defendant Tesla's Motion to Dismiss regarding the second
12 and third causes of action for non-payment of wages under the California Labor
13 Code and Fair Labor Standards Act on the grounds that he failed to plead any
14 facts to establish such claims and asserted only conclusory statements.
- 15 4. Defendant BSW joins Defendant Tesla's Motion to Dismiss regarding the fifth
16 cause of action for breach of contract on the grounds that Plaintiff failed to assert
17 any facts to overcome the presumption that his employment was "at-will" and the
18 only "facts" asserted are vague, insufficient and unintelligible assertions.
- 19 5. Defendant BSW joins Defendant Tesla's Motion to Dismiss regarding the sixth
20 and seventh causes of action for fraudulent misrepresentation and fraudulent
21 concealment on the grounds that such claims are based on contract principles that
22 are wholly inapplicable in the context of at-will employment; Plaintiff failed to
23 sufficiently plead with particularity the circumstances constituting fraud; and
24 Plaintiff failed to allege any factual allegations of misrepresentation or
25 concealment specifically against BSW.
- 26 6. Defendant BSW joins Defendant Tesla's Motion to Dismiss regarding the eighth

1 cause of action for tortious interference on the grounds that he failed to establish a
2 contract between him and BSW, failed to establish knowledge by BSW of an
3 existing or future contract between him and a third party, and otherwise asserted
4 only conclusory allegations.

5 BSW's joinder is based on this notice, all pleadings and papers on file in this action, and
6 oral argument as may be presented to the Court.

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8 Dated: December 24, 2020

GORDON REES SCULLY MANSUKHANI,
LLP



9
10 By: _____

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